



General Assembly

January Session, 2009

***Raised Bill No. 6327***

LCO No. 2609

\*02609\_\_\_\_\_BA\_\*

Referred to Committee on Banks

Introduced by:  
(BA)

***AN ACT CONCERNING SURETY BONDS FOR DEBT ADJUSTERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-664 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) (1) Except as provided in subdivision (2) of this subsection, no  
4 such license, and no renewal thereof, shall be granted unless the  
5 applicant has filed a surety bond with the commissioner written by a  
6 surety authorized to write such bonds in this state, provided any  
7 applicant that files applications for licenses for more than one location  
8 shall file a single bond. [For] Except as provided in this subdivision,  
9 for every applicant, the principal amount of the bond shall be the  
10 greater of (A) forty thousand dollars, or (B) (i) twice the amount of the  
11 [highest total] average daily balance of the payments received by the  
12 applicant from Connecticut debtors in connection with the applicant's  
13 debt adjustment activity [in any month] during the preceding twelve  
14 months ending July thirty-first of each year or (ii), in the case of an  
15 applicant that has acquired the business of a predecessor debt adjuster,  
16 the lesser of the amount of the predecessor's debt adjustment activity

17 during such preceding period or one million dollars. The  
18 commissioner may require a larger bond if the commissioner  
19 determines that a licensee has engaged in a pattern of conduct  
20 resulting in bona fide consumer complaints of misconduct and that  
21 such increased bond is necessary for the protection of consumers, or  
22 may increase or decrease the amount of the bond based upon the  
23 applicant's or licensee's financial condition, business plan and the  
24 actual or estimated aggregate amount of payments and fees paid by  
25 Connecticut debtors to such applicant. Each licensee shall submit to  
26 the commissioner, [evidence that the bond complies with the  
27 provisions of this subdivision] by September first of each year, a report  
28 containing information on the average daily balance of the payments  
29 received by the licensee from Connecticut debtors during the  
30 preceding twelve months ending July thirty-first of each such year.  
31 The report shall be subscribed and affirmed as true by the licensee and  
32 shall be in a form prescribed by the commissioner.

33 (2) If a licensee or applicant for renewal of a license establishes that  
34 such licensee or applicant is unable to comply with the bond required  
35 by subdivision (1) of this subsection, it [may submit to the  
36 commissioner, by July first, a request for an alternative to such  
37 requirement. If the commissioner finds that the financial responsibility,  
38 character, reputation, integrity and general fitness of the applicant so  
39 warrant, the commissioner may permit the applicant or licensee to  
40 supplement the maximum surety bond that] shall file a bond for the  
41 highest principal amount it can obtain, provided [the principal amount  
42 of the surety bond] such amount shall be a minimum of forty thousand  
43 dollars, [with such other bonds or insurance policies, in such amounts,  
44 for such period and subject to such conditions as the commissioner  
45 may approve. Any such bond or insurance policy shall be written or  
46 issued by a surety or insurance company authorized to write such  
47 bonds or sell such insurance in this state] and the licensee or applicant  
48 for renewal shall, in lieu of the balance of the required amount of the  
49 bond, deposit a sum equal to the amount of the bond required by  
50 subdivision (1) of this subsection, less the amount of the bond filed

51 with the commissioner, in cash or cash equivalents, with such bank,  
52 out-of-state bank that has a branch in this state, Connecticut credit  
53 union or federal credit union as such applicant or licensee may  
54 designate and the commissioner may approve, and subject to such  
55 conditions as the commissioner deems necessary for the protection of  
56 consumers and in the public interest. No licensee or applicant shall  
57 make such deposit until the depository institution and the licensee or  
58 applicant executes a deposit agreement satisfactory to the  
59 commissioner. The deposit agreement shall pledge the amount  
60 deposited to the commissioner and provide that the depository  
61 institution shall not release any of the moneys pledged without the  
62 authorization of the commissioner. The amount deposited shall secure  
63 the same obligation as would a surety bond filed under this section  
64 and shall be held at such banks or credit unions to cover claims during  
65 the period the license remains in full force and effect and the  
66 succeeding two years after such license has been surrendered, revoked  
67 or suspended or has expired. The licensee or applicant may collect  
68 interest on such deposit in accordance with its deposit agreement. The  
69 deposits made pursuant to this section shall be deemed, by operation  
70 of law, to be held in trust for the benefit of any debtor, who may be  
71 damaged by failure of a licensee or applicant to perform any written  
72 agreements or by the wrongful conversion of funds paid to a licensee  
73 in the event of the bankruptcy of the licensee, and shall be immune  
74 from attachment by creditors or judgment creditors.

75 (3) The form of any surety bond submitted pursuant to this section  
76 shall be approved by the Attorney General. Any surety bond filed  
77 under this section shall be conditioned upon the licensee faithfully  
78 performing any and all written agreements with debtors, truly and  
79 faithfully accounting for all funds received by the licensee in the  
80 licensee's capacity as a debt adjuster, and conducting such business  
81 consistent with the provisions of sections 36a-655 to 36a-665, inclusive.  
82 Any debtor who may be damaged by failure to perform any written  
83 agreements, or by the wrongful conversion of funds paid to a licensee,  
84 may proceed on any such surety bond against the principal or surety

85 thereon, or both, to recover damages. The commissioner may proceed  
86 on any such surety bond against the principal or surety thereon, or  
87 both, to collect any civil penalty imposed upon the licensee pursuant to  
88 subsection (a) of section 36a-50. The proceeds of any bond, [or  
89 insurance policy,] even if commingled with other assets of the licensee,  
90 shall be deemed by operation of law to be held in trust for the benefit  
91 of such claimants against the licensee in the event of bankruptcy of the  
92 licensee and shall be immune from attachment by creditors and  
93 judgment creditors. Any bond [or insurance policy] required by this  
94 section shall be maintained during the entire period of the license  
95 granted to the applicant, and the aggregate liability under any such  
96 bond [or insurance policy] shall not exceed the principal amount of the  
97 bond or the limit of liability. [of the insurance policy.]

98 (b) The surety [or insurance company] shall have the right to cancel  
99 any bond [or insurance policy written or issued] filed under subsection  
100 (a) of this section at any time by a written notice to the licensee, stating  
101 the date cancellation shall take effect. Such notice shall be sent by  
102 certified mail to the licensee at least thirty days prior to the date of  
103 cancellation. No such bond shall be cancelled unless the surety [or  
104 insurance] company notifies the commissioner in writing not less than  
105 thirty days prior to the effective date of cancellation. The commissioner  
106 shall automatically suspend the license on the date the cancellation  
107 takes effect, unless the bond [or insurance policy] has been replaced or  
108 renewed. The commissioner shall give the licensee notice of the  
109 automatic suspension pending proceedings for revocation or refusal to  
110 renew and an opportunity for a hearing on such actions in accordance  
111 with section 36a-51.

112 (c) No licensee shall use, attempt to use or make reference to, either  
113 directly or indirectly, any word or phrase which states or implies that  
114 the licensee is endorsed, sponsored, recommended [,] or bonded [or  
115 insured] by the state.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>July 1, 2009</i>	36a-664
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***Statement of Purpose:***

To amend the bonding requirements for licensed debt adjusters.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*